

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAYMOND M. BINNEY,

Defendant.

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CASE NO. 1:12-cr-272

ORDER
[Resolving Doc. 79]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On November 23, 2020,¹ Defendant Raymond Binney moved for reconsideration of this Court's October 22, 2020 order² denying his 18 U.S.C. § 3582(c) compassionate release motion.³ But Binney filed a Notice of Appeal from the same order a month earlier on October 23, 2020.⁴ This Court therefore lacks jurisdiction over Binney's reconsideration motion.⁵ The Court accordingly **DENIES** Binney's motion under Federal Rule of Criminal Procedure 37(a)(2).⁶

IT IS SO ORDERED.

Dated: December 29, 2020

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

¹ Doc. 79.

² Doc. 77.

³ Doc. 66.

⁴ Doc. 78.

⁵ *United States v. Young*, 847 F.3d 328, 360 (6th Cir. 2017) (citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)). Even if Binney's reconsideration motion is construed as a Federal Rule of Criminal Procedure 35(a) motion, it is untimely because it was not made within 14 days of the Court's October 22, 2020 order denying Binney compassionate release. This Court therefore does not retain jurisdiction notwithstanding Binney's appeal under Federal Rule of Appellate Procedure 4(b)(5). *United States v. Rincon*, 477 F. App'x 391, 393 (7th Cir. 2012).

⁶ The Court notes that the Sixth Circuit has denied Binney's motion to hold his appeal in abeyance until this Court rules on his reconsideration motion. Case No. 20-4131, Doc. 13 (6th Cir. Nov. 19, 2020).